THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition (M/S) No. 1087 of 2006.

Dinesh Chandra Joshi, S/O Sri B.D. Joshi,
Badrikashram, Damuadhunga Panchakki, P.O. Kathgodam,
District Nainital.

…. **Petitioner.**

Vs.

1. Registrar Firm Societies & Chits, Uttaranchal, Dehradun.
2. Deputy Registrar Firm Societies & Chits, Kumaun Division, Haldwani, Nainital.

…. **Respondents.**

Sri V.B.S. Negi, learned counsel for the petitioner.
Sri Paresh Tripathi, Learned Counsel for the respondents.

Date August 14, 2006
P.C.: Hon'ble B.S. Verma, J.

By means of this writ petition, the petitioner has sought a writ, order or direction in the nature of certiorari quashing the order dated 25.7.2006 contained in Annexure No. 10 to the writ petition. The petitioner further prayed for writ order or direction in the nature of mandamus directing the respondents to hold inquiry in the illegal activities committed in the society. A prayer for setting aside the elected dated 11.9.2003 has been made by way of mandamus of this Court.

The petitioner has alleged himself to be one of the founder members of the society and bearer of office of the Vice President and that Holy Angels Catholic Education and Charitable Society was registered on 15.9.1998 and the registration was valid up-to 14.9.2003 and thereafter the said society became unregistered. In the month of May, 2005 the Society Bapist Vegas died and the petitioner took over charge for smooth running of the society, but it came to the notice of the petitioner that the society was renewed on 22.12.2004 and the petitioner had been removed from the governing body. The petitioner has pleaded that when a new committed is

formed/elected, a memorandum is necessary as provided under Section 4 of the Societies Registration Act 1860. The petitioner has alleged that the renewal process of the society was done just in one day and the signatures of the petitioner obtained on the memo are forged. It was also challenged that the signature of Sri Mark Rodrigues were forged. It was also challenged that the new Vice President who is working in Dubai since April 2003 but his signatures are therein the election proceedings. The petitioner further alleged that he made representation for holding an inquiry into the matter, but after initiation, the same had proceeded further. It was also stated that the petitioner filed a Writ Petition bearing No. 531 of 2006 (M/S) and vide order dated 95.2006, this Court directed the respondent no.2 to dispose of the representation of the petitioner within a period of one month. The representation was filed in the office of the respondent no.2, which too was rejected as not maintainable vide order dated 25.7.2006 was passed by the respondent no.2 being very much under the influence of one Smt. Anjali Maria.

I have heard rival contentions of both the parties and perused the material on record which have been annexed by the petitioner along with the memo of writ petition.

I have carefully gone through the impugned order dated 25.7.2006 (Annexure No. 10), which is under challenge, but the concluding portion of the said order has not been filed on record. The controversy raised in the writ petition read with recital of the impugned order clearly reveal that there are disputed questions of facts, which are sough to be answered by the petitioner. The scope of the writ jurisdiction is limited and it is settled law that this court cannot decide disputed questions of fact as a court of appeal. In the circumstances of the case, the petitioner may seek redressal of his grievance under the provisions of Section 25 of the Societies Registration Act 1860 before the Prescribed Authority.

However, the petitioner may approach the Prescribed Authority under Section 25(1) of the Societies Registration Act and

the Prescribed Authority after presentation of the application/petition shall decide the same preferably within a period of two months from the date of presentation of the application.

With the above observations, the writ petition is disposed of finally.

(B.S. Verma,J.)

RCP